

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF REVENUE**

IN THE MATTER OF:)

J. J. A.)

) OAH No. 11-0143-CSS
) CSSD No. 001141963
)

DECISION AND ORDER

I. Introduction

The obligor, J. J. A., appeals a Modified Administrative Child Support and Medical Support Ordered issued by the Child Support Services Division (CSSD). The obligee child is S. S. and the custodial parent is K. S.

A hearing was held on May 4, 2011. Mr. A. participated by telephone. The telephone number available for Ms. S. was not in service and she did not participate. Child Support Specialist Andrew Rawls also participated by telephone. Based on the evidence in the record, Mr. A.' ongoing support obligation should be set at \$458 per month for one child.

II. Facts

A. Background

A Modified Administrative Child Support and Medical Support Order was issued on May 22, 2009.¹ On January 4, 2011, on-going support was suspended because S. was not in the custody of Ms. S.² In February, Mr. A. requested a modification of the child support order.³ A Notice of Petition for Modification of Administrative Support Order was mailed on February 28, 2011.⁴ A Modified Administrative Child Support and Medical Support Order was issued on April 1, 2011.⁵ Mr. A. appealed that decision, stating that he only works 120 hours a month, rather than full time as assumed by CSSD's prior calculation.⁶

1 Exhibit 1.
2 Exhibit 3.
3 Exhibit 4.
4 Exhibit 5, page 4.
5 Exhibit 6.
6 Exhibit 8.

B. Material Facts

Mr. A. previously worked as a police officer in No Name City.⁷ He worked nights, and did not have much time to spend with his family. He left that job and moved back to No Name Village, Alaska. This is also where S. lives. He is currently employed with the Native Village of No Name. He works 30 hours per week, earning \$20 per hour. At the hearing, Mr. A. agreed that this would result in annual income of \$31,200.

III. Discussion

A parent is obligated both by statute and at common law to support his or her children.⁸ Civil Rule 90.3(a)(1) provides that an obligor's child support amount is to be calculated based on his or her "total income from all sources." Child support orders may be modified upon a showing of "good cause and material change in circumstances."⁹ If the newly calculated child support amount is more than a 15% change from the previous order, Civil Rule 90.3(h) assumes "material change in circumstances" has been established and the order may be modified. If the 15% change has not been met, CSSD may modify the child support obligation, but is not required to do so. A modification is effective beginning the month after the parties are served with notice that a modification has been requested.¹⁰ Finally, the person appealing CSSD's decision has the burden of demonstrating that the decision is incorrect.¹¹

CSSD had previously calculated Mr. A.'s income based on the assumption that he worked full time. Mr. A. has met his burden of proving that CSSD's decision was incorrect by establishing that his employment was only 30 hours per week. As shown in Attachment A, the child support calculation based on an annual salary of \$31,200 and one Permanent Fund Dividend check results in a child support obligation of \$458 per month.

IV. Conclusion

Mr. A.' part time income at \$20 per hour should be the basis for calculating his child support obligation. Based on that income, his support obligation should be \$458 per month for one child.

⁷ Factual findings are based on Mr. A.' testimony unless otherwise noted.

⁸ *Matthews v. Matthews*, 739 P.2d 1298, 1299 (Alaska 1987) & AS 25.20.030.

⁹ AS 25.27.190(e).

¹⁰ 15 AAC 125.321(d).

¹¹ 15 AAC 05.030(h).

V. Child Support Order

- Mr. A.'s ongoing child support obligation is set at \$458 per month effective March 1, 2011.
- All other provisions of the Modified Administrative Child Support and Medical Support Order of April 1, 2011 remain in full force and effect.

DATED this 6th day of May, 2011.

By: Signed
Jeffrey A. Friedman
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision and Order as the final administrative determination in this matter.

Under AS 25.27.062 and AS 25.27.250, the obligor's income and property are subject to withholding. Without further notice, a withholding order may be served on any person, political subdivision, department of the State, or other entity.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 25.27.210 and Alaska Rule of Appellate Procedure 602(a)(2) within 30 days after the date of this decision.

DATED this 27th day of May, 2011.

By: Signed
Signature
Jeffrey A. Friedman
Name
Administrative Law Judge
Title

[This document has been modified to conform to the technical standards for publication.]